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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,702	11/24/2003	Jacques P. Dumas	5052D1	5379

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EXAMINER	
O SULLIVAN, PETER G	
ART UNIT	**PAPER NUMBER**
1621	
MAIL DATE	**DELIVERY MODE**
09/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/720,702	DUMAS ET AL.	
	Examiner	Art Unit	
	Peter G. O'Sullivan	1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-16* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

In their response filed 26 March 2009, applicants elected group II. They are required to elect a single disclosed species as set forth below.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-3, 6-8, 11-13 and 16 (all in part), drawn to compounds wherein Z is nitrogen and R1 and R2 form a bridged substituent with heteroatoms in the second ring thus formed, classified in class 544, subclass 236+.

II. Claims 1-3, 6-8, 11-13 and 16 (all in part), drawn to compounds wherein Z is nitrogen and R1 and R2 form a bridged substituent without heteroatoms in the second ring thus formed, classified in class 544, subclass 235+.

III. Claims 6-8 and 11-13 (all in part), drawn to compounds wherein Z is nitrogen and R1 and R2 do not form a bridge, classified in class 544, subclass 238+.

IV. Claims 1-3, 6-8, 11-13 and 16 (all in part), drawn to compounds wherein Z is carbon and R1 and R2 form a bridged substituent with heteroatoms in the second ring thus formed, classified in class 546, subclass 113+.

V. Claims 1-3, 6-8, 11-13 and 16 (all in part), drawn to compounds wherein Z is carbon and R1 and R2 form a bridged substituent without heteroatoms in the second ring thus formed, classified in class 546, subclass 139+.

VI. Claims 6-8 and 11-13 (all in part), drawn to compounds wherein Z is carbon and R1 and R2 do not form a bridge, classified in class 546, subclass 186+.

VII. Claims 4, 5, 9, 10, 14 and 15, drawn to methods of treating tumors, classified in class 514, subclass 247+.

VIII. Claims 4, 5, 9, 10, 14 and 15, drawn to methods of treating retinopathy or macular degeneration, classified in class 514, subclass 247+.

IX. Claims 4, 5, 9, 10, 14 and 15, drawn to methods of treating arthritis, classified in class 514, subclass 247+.

X. Claims 4, 5, 9, 10, 14 and 15, drawn to methods of bullous disorders, classified in class 514, subclass 247+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-VI and VII-X are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case applicants claim multiple methods of using and additionally materially different products could be used for treating the disease of groups VII – X such as, respectively, fluoro-uracil compounds, laser therapy, aspirin, and antibiotics. Groups I-VI are distinct because the compounds are so structurally disparate a reference anticipating one would not necessarily render the other obvious. Additionally, groups VII-X are disctint inasmuch as a method of treating one disease would not necessary render as obvious the treatment of the other diseases.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicants are further required to elect a single disclosed species, i.e a single disclosed compound if one of groups I-VI are elected or a single disclosed method wherein a single compound and disease state to be treated if one of groups VII-X is elected.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication should be directed to Peter G. O'Sullivan at telephone number (571)272-0642.

/Peter G O'Sullivan/

Primary Examiner, Art Unit 1621